

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**JOSEPH A. JARAMILLO,**

**Plaintiff,**

**v.**

**No. CIV-11-0906 JB/LAM**

**CAROLYN W. COLVIN, Acting  
Commissioner of the Social Security  
Administration,**

**Defendant.**

**ORDER GRANTING PLAINTIFF'S MOTION FOR ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on Plaintiff's *Motion for Attorney Fees and Costs Pursuant to Equal Access to Justice Act, With Memorandum in Support (Doc. 41)* in the amount of \$6,672.36 for attorney fees. In her response (*Doc. 42*), the Commissioner does not object to Plaintiff's request for attorney fees in this amount. The Court, having considered the submissions of counsel, the record in this case, and the relevant law, and being otherwise fully advised **FINDS** that Plaintiff's motion is well-taken and will be **GRANTED**.

**WHEREFORE, IT IS HEREBY ORDERED** that Plaintiff's *Motion for Attorney Fees and Costs Pursuant to Equal Access to Justice Act, With Memorandum in Support (Doc. 41)* is **GRANTED**, and Plaintiff Joseph A. Jaramillo is authorized to receive **\$6,672.36** for payment to Plaintiff's attorney for services before this Court, as permitted by the Equal Access to Justice Act, 28 U.S.C. § 2412, and in accordance with *Manning v. Astrue*, 510 F.3d 1246, 1255 (10th Cir. 2007).

**IT IS FURTHER ORDERED** that, if Plaintiff's counsel is ultimately granted attorney fees pursuant to 42 U.S.C. § 406(b) of the Social Security Act, Plaintiff's attorney shall refund the smaller award to Plaintiff pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 596 n.4 (2010) (explaining that, if a claimant's counsel is ultimately granted attorney fees under § 406(b) out of the claimant's benefit award, the claimant's attorney must refund to the claimant the amount of the smaller fee).

**IT IS SO ORDERED.**

  
**LOURDES A. MARTÍNEZ**  
**UNITED STATES MAGISTRATE JUDGE**